

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

NCS MULTISTAGE INC.,
Plaintiff

-v-

NINE ENERGY SERVICE, INC.,
Defendants.

§
§
§
§
§
§
§
§
§
§

6:20-CV-00277-ADA

CLAIM CONSTRUCTION ORDER

Before the Court are the parties' claim construction briefs: Plaintiff NCS Multistage Inc.'s opening, responsive, and reply briefs (ECF No. 41, 45, and 49, respectively) and Defendant Nine Energy Service, Inc.'s opening, responsive, and reply briefs (ECF No. 42, 44, and 49, respectively). The Court provided preliminary constructions on January 11, 2021 and held the *Markman* hearing on January 14, 2021. Taking into consideration the parties' briefs and arguments at the Markman hearing, the Court enters its constructions as the final constructions for each term as shown below.

#	Claim Term	NCS' Proposed Construction	Nine's Proposed Construction	Court's FINAL Construction
1	"internal diameter" (Claims 1, 22, 28, 50)	No construction.	the diameter of a fluid channel measured perpendicularly from the inner wall of the fluid channel through the center of the fluid channel, to the opposite inner wall	Plain and ordinary meaning where the plain and ordinary meaning can refer to both an inner surface and a measured diameter.
2	"tubular member" (Claims 1, 22, 28, 50)	No construction.	an upper tubular member, and a lower tubular member coupled with the upper tubular member	Plain and ordinary meaning.

3	“sealing engagement” (Claims 1, 22, 28, 50, 55)	a substantially fluid-tight seal	attached or secured to create a fluid-tight seal	a substantially fluid-tight seal
4	“rupturing force” (Claims 1, 22, 27, 56, 57)	a hydraulic pressure or impact force sufficient to rupture the rupture disc	Term is Indefinite Under 35 U.S.C. § 112 Proposed Alternative: “rupturing hydraulic pressure”	a hydraulic pressure or impact force sufficient to rupture the rupture disc
5	“the rupture disc is...configured to rupture when exposed to a rupturing force greater than the rupture burst pressure” (Claims 1, 22, 29, 56)	the rupture disc can rupture if exposed to hydraulic pressure that is higher than its rupture burst pressure	Term is Indefinite Under 35 U.S.C. § 112 Proposed Alternative – “the rupture disc will rupture when exposed to a rupturing hydraulic pressure greater than the rupture burst pressure”	the rupture disc can rupture when exposed to a rupturing hydraulic pressure greater than the rupture burst pressure
6	“the region of the tubular member where the rupture disc is attached has a larger internal diameter than the internal diameter of the casing string and is parallel to the internal diameter of the casing string” (Claims 1, 22, 28, 50)	in the region of the tubular member, the rupture disc is directly secured to and in sealing engagement with a cylindrical surface that is wider than and parallel to the inner surface of the casing string	Term is Indefinite Under 35 U.S.C. § 112 Proposed Alternative –a flat surface of the tubular member where the rupture disc is fastened, affixed, joined, or connected to the tubular member is circular and has a diameter larger than the internal diameter of the casing string, and defines a plane that is parallel to a plane defined by the set of internal diameters at a location in the casing string	Plain and ordinary meaning where the plain and ordinary meaning is “in the region of the tubular member, the rupture disc is directly secured to and in sealing engagement with a cylindrical surface that is wider than and parallel to the inner surface of the casing string.”
7	“specific gravity... of the well fluid” (Claims 24, 52)	No construction.	Term is Indefinite Under 35 U.S.C. § 112	Plain and ordinary meaning.

8	“rupture disc is configured to disengage from sealing engagement when exposed to a pressure greater than a hydraulic pressure in the casing string” (Claims 28 and 50)	the rupture disc, before rupturing, can move relative to the region when exposed to a pressure that is greater than a hydrostatic pressure in the casing string (i.e. a disengaging pressure)	Term is Indefinite Under 35 U.S.C. § 112	Plain and ordinary meaning.
9	“disengage the rupture disc from sealing engagement” (Claim 55)	before rupturing, move the rupture disc relative to the region	disengage the rupture disc from being attached or secured to create a fluid-tight seal	Plain and ordinary meaning.

SIGNED this 14th day of January, 2021.



ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE